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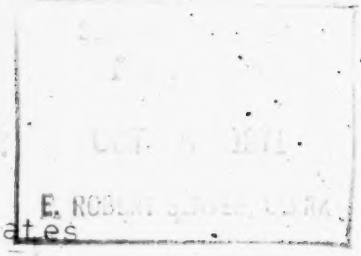

In the
Supreme Court of the United States

October Term, 1970
No. ~~1686~~ 70-232

Minneapolis Federation of Teachers, Local No. 59

Petitioner

-vs-

Douglas M. Head, Attorney General, State of Minnesota; Keith W. Davidson, Katherine V. Howard, Harvey A. Ring and Betty K. Robb, on behalf of themselves and all other Taxpayers and Residents of Special School District No. 1 of the City of Minneapolis; Special School District No. 1 and its Board of Education; City of Minneapolis Education Association; and John Doe

Respondents

THIRD SUPPLEMENT TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF MINNESOTA

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Petitioner files this supplemental brief pursuant to Supreme Court Rule 24 (5). Another facit of our Petition was recently discussed in Serrano v. Priest, Supreme Court of the State of California, in an opinion filed August 30, 1971. That case dealt with the constitutionality of the California public school financing system depending substantially on local property taxes.

Section 2 of our original Petition raised the issue of potential discrimination under the Minnesota "No Strike Law" against, for example, an aggressive teacher union or organization. Serrano raised a similar issue—whether the school financing system might result in discriminatory educational programs. The financing program was intentionally created but bore no reasonable relationship to the "fundamental right" (education) the system was designed to perpetuate. It contained great potential for discrimination. In support of that proposition the Court sites Harper v. Virginia Board of Elections, 383 U.S. 663 (1966) where this Court struck down a $1.50 poll tax, not because its purpose was to deter indigents from voting but because its result might be such.

The constitutional defect of the Minnesota "No Strike Law" is the chilling effect upon teachers joining particular bargaining organizations, not for the mere fact that strikes are prohibited, but because of the manner in which the law permits the school board to favor one organization over another when administrating the penalties of the Act. No adequate standards for delegating the powers are specified and no means other than judicial exist to prevent blatent discrimination. A

particular teacher organization may quickly find itself on the short end of school board decisions although all organizations may have participated in a strike. Whether or not members of a particular organization are, in fact, in violation of the No Strike Statute becomes immaterial if the school board chooses to favor administratively one organization over another. A school board may administer the law to favor an organization with younger members earning lower salaries; or, one with more women than men and a higher turnover rate than lowering district costs or for any other discriminatory reason. As a matter of practicality the teacher concerned about his job is going to look at the situation and join an organization in administrative favor

Potential penalties to a teacher under the No Strike Law are extremely grave. Arbitrary procedures, bearing no standards and subject to blatent discriminatory application are constitutionally insufficient to determine the fate of teachers accused of violating the No Strike Law. Seriousness of the potential consequences require the Court to view the proceedings in total. When this Court decided Duncan v. Louisiana 391 U.S. 145 (1968) it concluded the penalty for a particular crime was of major relevance in determining whether a jury trial was necessary. It looked beyond the mere classification of the crime as a petty offense to the potential penalty. Later, this principal was extended in Baker v. City of Fairbanks 471 P2d 386 (Alaska 1970) to an offense carrying serious consequences such as loss of a valuable license affecting one's occupation or business, although the legal penalty be small. When a legal penalt such as loss of a drivers license results in the further loss of an occupation or profession, the matter is worthy of serious and careful consider tion. Surely a teacher's rights to practice his

profession is as worthy of as careful judicial consideration as is a traveling salesman standing to lose his license when charged with driving while intoxicated when the teacher's license may be revoked because of some alleged illegal strike activity.

Respectfully submitted,

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OCTOBER TERM, 1970

No. 70-152

MINNEAPOLIS FEDERATION OF TEACHERS, LOCAL NO. 59
Petitioner

vs.

DOUGLAS M. HEAD, ATTORNEY GENERAL, STATE OF MINNESOTA; KEITH W. DAVIDSON, KATHERINE V. HOWARD, HARVEY A. RING AND BETTY K. ROBB, ON BEHALF OF THEMSELVES AND ALL OTHER TAXPAYERS AND RESIDENTS OF SPECIAL SCHOOL DISTRICT NO. 1 OF THE CITY OF MINNEAPOLIS; SPECIAL SCHOOL DISTRICT NO. 1 AND ITS BOARD OF EDUCATION; CITY OF MINNEAPOLIS EDUCATION ASSOCIATION; AND JOHN DOE
Respondents

BRIEF OF RESPONDENT KEITH W. DAVIDSON, ET AL.

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Dated August 25, 1971.

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